

# **Minutes of the Regular Meeting of the Buena Vista Planning and Zoning Commission**

July 6, 2016

## **CALL TO ORDER**

A regular meeting of the Planning and Zoning Commission was called to order at 7:02 pm, Wednesday, July 6, 2016 at Buena Vista Community Center, 715 E Main Street, Buena Vista, Colorado by Chair Trey Shelton. Also present were Commissioners Annie Davis, Preston Larimer, and Tim Bliss, and Alternate Ed Barkowski. Staff Present: Principal Planner Mark Doering, Planner I Scott Reynolds, Planning Technician Jill Abrell, and Assistant to the Town Administrator Emily Katsimpalis.

## **PLEDGE OF ALLEGIANCE**

Chair Shelton led in the Pledge of Allegiance.

## **ROLL CALL**

Abrell proceeded with the roll call and declared a quorum.

## **AGENDA ADOPTION**

Shelton called for approval of the agenda with an amendment to change the order of presentation of New Business such that the presentation of the Special Use Permit would be first. **Motion #1** by Davis seconded by Bliss to adopt the agenda as presented with amendment. Motion carried.

## **APPROVAL OF MINUTES**

Davis motioned for approval of the June 15, 2016 minutes. **Motion #2** was seconded by Bliss. Motion carried.

## **PUBLIC COMMENT**

Shelton opened the public comment portion of the hearing at 7:04 p.m.

John Grove of 116 N. Court rose to address the Commission. Mr. Grove prefaced his comment by applauding the Town and Planning Department for having a full staff. He then expressed concern regarding the Code Enforcement Officer. Mr. Grove was concerned that complaints were driving priorities of enforcement issues, and that there needed to be a way to recognize what was important and what was a "pesky neighbor." He further stated that some complaints needed research and knowledge before the Code Enforcement Officer dealt with them, as he believed that the lack thereof causes some complaints to not be handled properly. Mr. Grove then specifically discussed the property located at the corner of Colorado and Arkansas. He stated that he had previously been to court over said property to get it cleaned up but nothing happened. He mentioned that Cindy Smith of the Colorado Department of Public Health & Environment and Victor Crocco, Chaffee County Health Inspector, both had been out to the property and agreed that it was a liability and fire issue. Mr. Grove then stated that the property had recently been sold and that in changing owners, the Town missed an opportunity to handle the matter. He followed up the comment by stating he believed many people in the neighborhood would likely come together and work on the property together to get it cleaned up. Mr. Grove stressed that as the Town works on enforcement issues, there needs to be credibility and accountability. He further noted that the

Town needed to develop written guidance and criteria to determine priorities instead of indulging neighborhood complaints. He expressed concern that the process may be misused by capricious complaints instead of having something useful in place that would actually better the Town.

Chair Shelton agreed that this was something that needed attention. Mr. Grove added that a process needed work and concluded that the priorities seem out of whack.

The public comment portion of the hearing was closed at 7:13 p.m.

## **NEW BUSINESS**

### **620 Antero Circle Special Use Permit**

Reynolds began the presentation for the Special Use Permit for Peak Fitness, 620 Antero Circle to expand the existing building and parking lot. He commented that the location is in the B-2 Zone District. He noted that a Variance and Special Use Permit had been approved in February 2015, and that the Variance had been acted upon while the Special Use Permit had not, and that the applicant was re-applying for the Special Use Permit as it had expired. Reynolds showed the current and proposed drainage, landscaping, and the proposed expanded building.

Reynolds then discussed the criteria for a Special Use Permit. He noted that the Town does not anticipate issues with ingress/egress, nuisance (such as noise, odor, or glare), or parking. Reynolds stated that the refuse and service area would need to be relocated such that it would not be over an easement, and that screening would need to be put in place. Reynolds also noted that staff is working with the applicant to ensure that the proposed landscaping meets minimum standards. Reynolds stated that any new sign would require a sign permit, and that any new proposed exterior lighting fixtures need to be downcast and fully shielded. He explained that the lighting standards were set forth to preserve the night sky and prevent light pollution and light encroachment on neighboring properties. Reynolds explained that the applicant has proposed landscaping, but there are no requirements for yards or open spaces. He commented that the project is generally compatible with the adjacent properties and the neighborhood, and that there have been no complaints.

Reynolds concluded by stating that staff recommends approval with conditions to allow the Special Use Permit for Peak Fitness at 620 Antero Circle. The following conditions were outlined in the staff report:

1. minimum landscaping requirements must be met per Section 16-255 of the Municipal Code;
2. screened trash enclosure that is at least 6' tall must be provided;
3. a sign permit must be submitted and approved before any new signage is installed;
4. all exterior lighting needs to be downcast and shielded; and
5. approval shall run with the land.

He then opened it up for questions. Davis commented that it seemed pretty straightforward.

Marcus Trusty, applicant, of 137 Windwalker Road was present in the audience and stepped to the podium to speak. Mr. Trusty introduced himself to the Commission and began to discuss his request for a Special Use Permit. He commented that the parking changes are due to current customers parking on the street, and he would like to prevent any issues that may arise from that. He stated uncertainty as to whether on-street parking was currently allowed on Antero Circle. Mr. Trusty commented that working on the trash fixture and landscaping would not be an issue. He mentioned that he wasn't yet sure what the plans were for a sign.



Bliss asked Mr. Trusty if he had any issues with the conditions. Mr. Trusty replied that he would have a few questions regarding the easement and the fence and trash enclosure and location. He commented that he could find a new location for the dumpster and would discuss with the appropriate parties where to move it to. He noted that any questions he had in regards to complying with the conditions could be worked out with Reynolds.

Reynolds addressed Mr. Trusty's concern about building a fence on an easement. Reynolds responded that typically when an improvement is made on a property, it should be a long-term improvement. By building on an easement, utility companies have access to that property and can damage the improvement to access the easement without having to replace or fix the improvement. Reynolds clarified that Mr. Trusty could build the fence on the easement, though Staff recommended not doing so. Mr. Trusty stated he had no issue with this recommendation.

Bliss asked Reynolds if the application would be approved if Trusty was willing to take the risk of putting the fence in the easement. Reynolds responded that the application would not be denied if the fence was in the easement. Reynolds reiterated his concern that the utility companies could destroy the fence without having to pay for damages, and strongly advised Mr. Trusty to find a new location. He said he was open to looking for other feasible options to avoid the risk.

Doering added that should the fence be built in the easement, the Town would want confirmation from the utility companies that they were okay with the fence being there. Doering also added that he wanted to ensure that the applicant knew that the fence would have to be repaired at his expense, not at the expense of the utility companies. Mr. Trusty stated that he was open to looking for other feasible options as he did not want to put something up and then have to take it down.

Shelton commented that it seemed as though Mr. Trusty could work out these details with Town Staff. Shelton asked if there were any more questions, and when there were none, Larimer moved to recommend the Special Use Permit to the Board of Trustees with conditions as outlined by Staff. Davis seconded and **Motion #3** carried with no objections.

#### **Consideration of Alternate Member Application**

Doering informed Commissioners that Lynn Schultz-Writsel had submitted an application to be an alternate member of the Planning and Zoning Commission. Shelton mentioned he would like to meet her but is not opposed to having her as an alternate, and stated that having community members interested was great. Doering commented that she was recommended by Commissioner Banks. Following a brief discussion, the Commission decided to table the application. Larimer motioned to table the application until such time that Ms. Schultz-Writsel could be introduced to the Commission. Bliss seconded the motion and **Motion #4** passed unanimously. Larimer added that the approval of Ms. Schultz-Writsel's application would fill the board.

#### **Advisory Boards and Commissions Manual**

Katsimpalis presented to the Commission the Advisory Board and Commission Manuals, which was adopted by the Board of Trustees. She briefly went through the manual and noted that it included a checklist for effectiveness. Shelton thanked Katsimpalis for putting the manual together and suggested that some additional meetings between the Planning and Zoning Commission and the Board of Trustees be required to ensure that everyone was on the same page.

## **Module 2 of the Unified Development Code (UDC)**

Doering stated the Module 2 of the UDC is available on the Town's website and encouraged the Commission to review. He mentioned that staff is preparing to make comments and suggestions for revisions, and would like input from the Commission and the public. He encouraged the Commissioners to discuss this with members of the community to increase public feedback. He stressed that the Commissioners should focus on the "Process" section as they may have insight with how that section could be improved upon. Larimer asked how much public comment the Town has received. Doering replied that the Town has received very little feedback, and reiterated his desire to have the public review and provide input.

## **STAFF / COMMISSION INTERACTION**

Doering mentioned that the American Planning Association would be hosting a conference in Colorado Springs in September. He noted that discounted rates for Commissioners were available and that there were specific sessions for Commissioners. Doering commented that this would be a good opportunity for the Commissioners to gain training. Shelton and Bliss expressed interest in going. Doering stated that Commissioners should email him if interested.

Doering stated that staff receives a monthly planning magazine which the Commissioners were welcome to and he also noted that he had the Colorado Municipalities magazines for the Commissioners.

Bliss voiced concern regarding the property Mr. Grove had brought up earlier. Doering replied that there was a long history with the property, and mentioned that staff is trying to get nuisance regulations through the Board of Trustees, which would most likely provide regulations that would address the property. He noted that the new Code Enforcement Office, Alex Junker, has had several conversations with the new property owner. He stated that some progress has been made, and that a plan is being created to address the property. Doering noted that the new owner is not opposed to cleaning up the property, and that creative solutions would be welcomed. Larimer commented that the property owner could ask community members to help as he believes many people would come out to help.

Doering mentioned that staff is waiting for nuisance ordinances to pass so that staff would have enforceable regulations. Davis asked if the Board of Trustees has tabled the proposed ordinances. Doering responded that they had been tabled and that staff would be going back again to hopefully address the concerns that had been voiced in prior meetings. He commented that some of the other proposed ordinances would address campers, RVs, trailers, and camping. Bliss commented that RVs and tent camping should be regulated differently. Doering responded that proposed regulations would differentiate between RVs and tent camping. The Commissioners discussed potential differences of proposed regulations in various locations in Town in regards to RV and tent camping. Larimer stated he believes it tied into the tiny house issue. He mentioned that there was a lot of misinformation being spread around.

Doering commented that it's not unusual for towns to regulate RV set up on private property. He stressed compatibility with zone districts and concerns with health and safety regulations. He noted that staff is trying to make sure that everyone plays by the same rules and that the Town shows consistency.

Larimer noted that there is a basic political philosophy of "It's my land and I'm going to do what I want" which conflicts with the opposing side of "You do have neighbors and you have to take them into consideration."

Doering commented that there are cases in which there are fundamental things that the government is going to enforce. Doering explained that zoning was made legal by the Supreme Court in 1926 and that government has the ability to create and enforce regulations. He mentioned most communities in the U.S. find what rules are appropriate, and that having no rules is not appropriate despite. He concluded by stating that staff wouldn't be proposing a rule if there wasn't a problem.

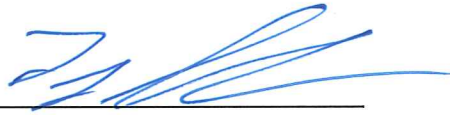

Davis asked about the weeds issue Mr. Grove had mentioned. Doering responded that weeds were being addressed in the proposed nuisance ordinances. He followed up his comment stating that there were some different opinions as to constituted as landscaping and that plenty of properties in town are landscaped and look aesthetically pleasing.

Doering concluded by encouraging Commissioners to come to the Board of Trustees meeting on Tuesday.

#### ADJOURNMENT

There being no further business to come before the Commission, Commissioner Bliss motioned to adjourn the meeting at 8:06 p.m. Commissioner Davis seconded. **Motion #5** was unanimously approved.

Respectfully submitted:

  
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Trey Shelton, Chair  
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Jill Abrell, Planning Technician